

Tax Compliance Tips for Used Motor Vehicle Dealers

Operating a used motor vehicle dealership involves handling a great deal of paperwork that can leave some dealers confused. Sometimes, even the most organized businesses have difficulty sorting through the many requirements necessary when setting up their records. The State Board of Equalization (BOE) can provide useful information to assist you in establishing and maintaining proper record keeping for sales and use tax purposes. By implementing these procedures, you may help ensure that your dealership accurately reports and pays only the proper amount of sales and use tax.

Here are some frequently asked questions regarding records retention for used motor vehicle dealers. Please keep in mind that other government agencies may have different record keeping requirements.

Q: What is the purpose of keeping proper business records?

A: You need to keep proper business records so the BOE may verify the accuracy of your sales and use tax returns. You want to make sure you pay only the correct amount of tax.

Q: What basic types of records am I required to maintain?

A: You should keep all records required to determine the proper amount of tax you may owe. This includes, but is not limited to: normal books of account showing your business income and expenses; documents of original entry, such as invoices, receipts, job orders, purchase orders, contracts, or other documents you use as the basis for your books of account; and all schedules or working papers you use in preparing your sales and use tax returns.

Q: What type of information should my records include?

A: Your records should include the gross receipts from all of your business income, including sales, leases, service charges, and labor income; all of the deductions you claim on your sales and use tax returns along with supporting documents for those deductions; and the total purchase price of all items you bought to sell, lease, use, keep, or give away.

Q: Are there additional records specific to used motor vehicle dealers that would be helpful in determining an accurate assessment of reported sales?

A: Yes. In addition to maintaining basic business records, you should also maintain the following records for used motor vehicle sales:

REG 51 Report of Sale, Used Vehicle (ROS) forms issued by the Department of Motor Vehicles (DMV). Dealers must report the retail sale of used vehicles on ROS forms. A BOE auditor examining your records will look for ROS slips in order to make an accounting of your transactions. Never destroy or discard any ROS documents. Blank, voided, or unused ROS forms help to show that all sales transactions are properly accounted for. The auditor may conclude that missing ROS documents were used for unreported vehicle sales; therefore, missing ROS forms may result in tax liability. If you suspect your ROS slips are lost or stolen, contact your DMV inspector immediately, and

notify the police.

Records for "roll backs" (rescinded sales). A "roll back" occurs when a motor vehicle is purchased and then returned to the dealership before the completion of the transaction and issuance of the title. Since all fees, including transfer fees, are due to the DMV, you should not void the ROS documents. In most cases, you will complete two ROS documents: one for the first purchaser, and one for the second purchaser. Remember, license and registration fees are not considered to be part of the sales price of the vehicle for sales tax purposes.

Car envelopes (dealer jackets). Details of each used motor vehicle sale should be complete and placed on the appropriate lines on the printed face of the envelope with all relevant documents attached. Documents in the envelope should include, but are not limited to: the sales invoice; the purchase agreement, a copy of the driver's license of the purchaser; the financing paperwork; title; registration documents; and any other items relevant to the sale. These envelopes have most of the information an auditor likely will examine to verify a particular sale so it is important to store them safely.

Customer registration information. It is important to use the purchaser's correct registration address so the proper sales or use tax rate is applied.

Q: What records are necessary to keep if I make an out-of-state or foreign sale of a used motor vehicle?

A: In order to establish that a motor vehicle is exempt from tax as a sale in interstate or foreign commerce, you must retain bills of lading or other shipping documents showing the delivery address outside of California, as well as other documents pertinent to the sale. When a used motor vehicle is sold for registration in another state, you must complete the ROS and mark it "For registration in another state." You must also complete a DMV Statement of Facts (REG 256) form explaining how the motor vehicle was transported to its out-of-state destination. If you sell a motor vehicle that the purchaser (or the purchaser's agent) picks up in California and drives to an out-of-state location for registration outside California, this sale generally does not qualify as an exempt sale. If you do not keep these records and you cannot otherwise prove a sale was not taxable, you may be required to pay tax, interest, and penalty.

Q: How long should I maintain my records?

A: You are required to keep sales and use tax records for at least four years unless the BOE gives you specific written authorization to destroy them sooner. If you are being audited, you should retain all records that cover the audit period until the audit is completely finished. If you have a dispute with the BOE about how much tax you owe, you should retain the related records until that dispute is resolved. However, for reporting periods beginning before January 1, 2003 that are subject to the extended 10-year statute of limitations of the 2005 Tax Amnesty Program, records required to be retained must be preserved for a period of not less than 10 years. For further information about this extended records retention requirement, please contact the BOE Information Center as listed below.

Q: What should I expect if I am audited?

A: If you are contacted by the BOE for review, the auditor will tell you the audit period (usually three years) and ask about your business operations, accounting methods, and the type of records kept. The auditor also will identify the records you should have ready for the audit. You must provide all relevant records to the auditor, who is required to keep them confidential.

The auditor usually starts the audit with a preliminary examination of your records. This examination gives the auditor an idea of the records you have available and procedures you used to record your transactions. Based on a brief review of your records, the auditor may feel an audit is not needed. If this is the case, you will receive a notice waiving the audit. However, this notice does not constitute written advice that you are reporting tax correctly. If the preliminary tests indicate possible reporting errors, a more complete review may be required.

Audits are intended to ensure you pay only the correct amount of tax – no more, no less. Oftentimes, audits result in no change to tax liability, and some audits result in a refund.

Q: What should I do if I did not keep all of the records I should have?

A: If some essential records are not available, tell the auditor what records you do have. Sometimes, missing records may be reconstructed from information provided by suppliers or customers. The auditor should be able to assist you if you have any concerns.

Q: What if I disagree with the audit results?

A: If you disagree with the audit results, the auditor generally will defer preparing the final audit report until you have provided information to support your argument. You should clearly explain why you disagree and ask the auditor about the documentation you need to support your position.

Available Resources

BOE Publications: The following free publications are available at

HYPERLINK "<http://www.boe.ca.gov>"

www.boe.ca.gov

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- BOE Publication #34: Tax Tips for Motor Vehicle Dealers
- BOE Publication #71: California City and County Sales and Use Tax Rates
- BOE Publication #76: Audits
- BOE Publication #101: Sales Delivered Outside California
- BOE Publication #116: Sales and Use Tax Records
- BOE Special Notice: Tax Amnesty (November 2005)

DMV Publications: The following free publication is available at

HYPERLINK "<http://www.boe.ca.gov>"
www.dmv.ca.gov
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- DMV Publication #REG 611: Handbook of Registration Procedures (formerly Dealer's Handbook)

For Further Information: To obtain further information, please call the BOE Information Center at 1-800-400-7115 or visit:

HYPERLINK <http://www.boe.ca.gov>
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BETTY T. YEE -
ACTING MEMBER
STATE BOARD OF EQUALIZATION

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455 GOLDEN GATE AVENUE, #10500 • SAN FRANCISCO, CALIFORNIA
94102 • (415) 557-3000 • FAX (415) 557-0287
450 N STREET, MIC:71 • SACRAMENTO, CALIFORNIA 95814 • (916) 445-
4081 • FAX (916) 324-2087
WEBSITE: www.boe.ca.gov/members/yee/
E-MAIL: betty.yee@boe.ca.gov

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